

Appl. No. 10/822,952
Amdt. dated February 13, 2006
Reply to Office Action dated November 14, 2005

REMARKS

Applicant thanks the Office for the attention accorded the present Application in the November 14, 2005, Office Action. In that Action, a restriction was required under 35 U.S.C. §121, renumbering of the claims was required because there were two claims numbered '10', and Claims 1-13 were provisionally rejected based on nonstatutory obviousness-type double patenting.

Applicant has canceled Claims 14-27.

Claim renumbering

Applicant inadvertently numbered two consecutive claims as '10'. Since patent claims cannot be renumbered, Applicant has amended the second claim numbered '10' to '28' so that it follows the highest numbered claim.

35 USC §121 Restriction Requirement

Applicant reaffirms the telephone conversation between the undersigned and the Examiner on October 25, 2005. Applicant provisionally elects without traverse the Group I invention identified by the Office as Claims 1-13. Because of the claim renumbering issue addressed above, the Group I invention is now identified as Claims 1-13 and 28. Applicant reserves the right to include all of the claims in Group II should a generic claim be allowed, pursuant to 37 C.F.R. §1.143, and without affecting Applicant's ability to later file divisional applications based on the non-elected claims of Group II.

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Nonstatutory Double Patenting rejections:

The Office rejected Claims 1-8, 12, and 13 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/419,464 in view of Cribb et al. (US 5,393,928). Claims 9 and 10 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/419,464 in view of Cribb et al. (US 5,393,928) as applied to Claim 1 above, further in view of JP 09268467. Claim 11 was also rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/419,464 in view of Cribb et al. (US 5,393,928) as applied to Claim 1 above, further in view of Bunyan et al. (US 6,248,393).

Enclosed please find a terminal disclaimer in compliance with 37 CFR 1.321(c) to obviate the double patenting rejection. The copending and present applications are commonly owned by the Applicant.

In light of the terminal disclaimer, Applicant respectfully submits that the nonstatutory double-patenting rejection of Claims 1-13 over copending Application No. 10/419,464 has been successfully traversed. Allowance of these claims is therefore requested.

Applicant believes that all of the pending claims, Claims 1-13 and 28, should now be in condition for allowance. Early and favorable action is respectfully requested.

The Examiner is invited to telephone the undersigned, Applicant's attorney of

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record, to facilitate advancement of the present application.

Respectfully submitted,

Dated: 2/13/06



Robert R. Deleault, Reg. No. 39,165
Attorney for Applicants
41 Brook Street
Manchester, NH 03104
Tel. (603) 688-1971
Fax (603) 622-1445

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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300 on February 13, 2006.

Robert R. Deleault
